

OMB Control Number 1010-0138
30 CFR 206, Subpart B
Establishing Oil Value for Royalty Due on Indian Leases
Expiration Date 04/30/2003

Justification for 90-Day Extension

Minerals Management Service (MMS) is requesting a 90-Day extension of the current information collection in order to collect and respond to comments on 60-Day *Federal Register* (68 FR 9709) published February 28, 2003, and submit the information collection approval request to OMB. Due to the complex nature of this information collection (Indian crude oil valuation reporting), the 60-Day *Federal Register* notice was processed as quickly as possible but in essence, later than anticipated due to program refinements for current information collections, new information collections and previously overlooked information collections. We believe it is a prudent use of time and resources to submit only one information collection to cover all of the related information collections. The 60-Day *Federal Register* notice comment due date of April 29, 2003 does not allow reasonable time to review all related Indian crude oil reporting comments, and submit and receive approval of the 30-Day *Federal Register* notice information collection request by the current expiration date of April 30, 2003.

Background

The Secretary of the U.S. Department of the Interior (DOI) is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands. The Secretary is required by various laws to manage mineral resources production on Federal and Indian lands, collect the royalties due, and distribute the funds in accordance with those laws. The Secretary also has an Indian Trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The MMS performs the royalty management functions and assists the Secretary in carrying out the DOI Indian trust responsibility.

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share (royalty) of the value received from production from the leased lands. The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data reported to private and public mineral interest owners and is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to assure the royalties are paid appropriately.

On December 20, 1995, MMS published an Advance Notice of Proposed Rulemaking (60 FR 65610) regarding valuation of oil from Federal and Indian leases. In the notice, we asked all interested parties to submit and/or comment on alternate methodologies for valuing oil production. Additionally, we asked for comments related to "significant quantities" in valuation determinations.

Although industry generally had no comments due to pending litigation on this issue, many States and Indian organizations generally believed the current system is outdated and a new system based on either the New York Mercantile Exchange (NYMEX) or spot prices would be

more appropriate. In response to these concerns, we published a proposed rulemaking on February 12, 1998 (63 FR 7089) revising the current Indian oil valuation regulations. This proposed rule "Establishing Oil Value for Royalty Due on Indian Leases", added more certainty to valuation of oil produced from Indian lands and eliminated any direct reliance on posted prices.

This proposed Indian Oil rule established a new form, "Indian Crude Oil Valuation Report" (Form MMS-4416) for collecting value and value differential data. In April 1998, the Office of Management and Budget (OMB) approved the use of this proposed Form MMS-4416 and assigned OMB Control Number 1010-0113.

In the February 12, 1998 (65 FR 7089) proposed rule, we identified an information collection requirement not previously addressed. In addition, we identified two new information collection requirements in the January 5, 2000 (65 FR 403) supplementary proposed rule, not previously addressed.

We will also address the remaining overlooked information collections under the current Indian Oil Valuation Regulations at 30 CFR 206.

New Information Collections

These three new information collection requirements for 30 CFR are as follows:

Proposed Rule (63 FR 7089, February 12, 1998)

- 30 CFR § 206.54 allows lessees to ask MMS for valuation guidance. The lessee may develop and propose a valuation method to MMS. The lessee would submit all available data related to their proposal and any additional information MMS deems necessary. MMS would promptly review the proposal and provide the requested guidance.

Supplementary Proposed Rule (65 FR 403, January 5, 2000)

- 30 CFR § 206.52 explains how Indian lessees must determine the value of oil produced from Indian leases. For royalty purposes, the value of oil produced from leases subject to 30 CFR Section 206 Subpart B -- Indian Oil is the value calculated under this section with applicable adjustments determined under this subpart. The lessee must report to MMS the higher of either their gross proceeds for the sale of its oil under an arm's-length contract or an applicable adjusted spot price. The lessee may be required to revise its initial report and remit additional consideration if the MMS-calculated major portion price is above the initially reported value.
- 30 CFR § 206.61(c)(3) states if an MMS-calculated differential under paragraph (c)(1)(ii) of this section does not apply to the lessee's oil, either due to location or quality differences, the lessee must file a written request for MMS to calculate the differential. This request must demonstrate why the published differential does not adequately address the lessee's specific circumstances. MMS will calculate the differential for the lessee as required under this proposed section.

MMS published a *Federal Register* notice on February 18, 2000 (65 FR 8442) soliciting comments on information collection requirements. We will review and carefully consider any comments received specific to these requirements, including any comments received from a public meeting which was held on February 8, 2000, in Denver, Colorado. We will summarize and address all comments in the final rule.

Remaining Overlooked Information Collections

In the current Indian Oil Valuation Regulations published on March 1, 1988, information collections were inadvertently overlooked. These remaining overlooked information collections under the current rules covered primarily collections that would be necessary in rare and unusual circumstances where the standard valuation procedures in the Indian oil valuation rule may not be applicable.